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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,924	12/05/2001	James M. McArdle	AUS920010930US1	9803
7590	01/06/2005		EXAMINER	
Frank C. Nicholas CARDINAL LAW GROUP Suite 2000 1603 Orrington Avenue Evanston, IL 60201			ANYA, CHARLES E	
			ART UNIT	PAPER NUMBER
			2126	
			DATE MAILED: 01/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/004,924	MCARDLE, JAMES M.	
	Examiner Charles E Anya	Art Unit 2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3/MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 December 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/17/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Claims 1-19 are pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.**

Specifically claim 4 as claimed includes a return code that is created by the application program, however page 5 lines 5-10 of the specification teaches a return code file that may be created or defined by the application program.

For the purpose of this office action the Examiner would change the phrase "the return code" to "the return code file".

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. **Claims 8 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

6. Claims 8 and 19 recites the limitation "the command processor" in "lines

2". There is insufficient antecedent basis for this limitation in the claim.

For the purpose of this office action the Examiner would change the phrase "the command processor" to "a command processor".

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1,2,4-9,11-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pat. No. 6,243,862 B1 to Lebow.**

9. As to claim 1, Sitbon teaches a method of providing command execution status of a command script to an application program (Col. 2 Ln. 60 – 67, Col. 3 Ln. 1 – 3, 37 – 54), comprising: creating a return code file ("...temporary files..."

Col. 6 Ln. 29 – 40) and storing a return code of at least one command of a command script in the return code file (“...temporary files...” Col. 6 Ln. 29 – 40).

10. Sitbon is silent with reference to accessing the stored return code from an application program.

11. Lebow teaches accessing the stored return code from an application program (Col. 11 Ln. 52 – 57).

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lebow and Sitbon because the teaching of Lebow would improve the system of Sitbon by providing means for examining a log file to identify possible discrepancies between returned and expected results (Lebow Col. 11 Ln. 55 – 57).

13. As to claim 2, Lebow teaches the method of claim 1, wherein the return code file is created by the command script (Col. 12 Ln. 21 – 24).

14. As to claim 4, Lebow teaches the method of claim 1, wherein the return code file is created by the application program (Col. 18 Ln. 55 – 60).

15. As to claim 5, Sitbon teaches the method of claim 1 further comprising prompting execution of the command script from the application program (Col. 4 Ln. 9 – 25).

16. As to claim 6, Sitbon teaches the method of claim 1 wherein the return code file comprises a file stored on a hard disk (Col. 6 Ln. 29 – 33).

17. As to claim 7, although neither Sitbon nor Lebow teach the method of claim 1 wherein the return code file comprises a file stored on a RAM disk, the idea of storing files in a RAM disk is well known in that art. It would be obvious to one ordinary skill in the art at time the invention was made to store the return code file in a Ram disk in order to access memory faster and fooling the operating system into believing that an additional disk drive exists (Computer Dictionary 7th. Ed. Microsoft Press page 330, column 1 paragraph 2).

18. As to claim 8, Lebow teaches the method of claim 1 wherein the return code file comprises a file stored in any location recognized as accessible by a command processor (Col. 11 Ln. 40 – 41, Col. 19 Ln. 59 – 67, Col. 20 Ln. 1 –12).

19. As to claims 9 and 12, see the rejection of claim 1 above.

20. As to claims 11 and 16, see the rejection of claim 5 above.

21. As to claims 13 and 15-19, see the rejection of claims 2 and 4-8 respectively.

22. Claims 3,10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pat. No. 6,243,862 B1 to Lebow as applied to claim 2 above, and further in view of U.S. Pat. No. 6,745,383 B1 to Agarwal et al.

23. As to claim 3, Sitbon and Lebow are silent with reference to the method of claim 2 further comprising verifying the existence of the return code file, prior to accessing the stored return code.

24. Agarwal teaches the method of claim 2 further comprising verifying the existence of the return code file, prior to accessing the stored return code (Col. 2 Ln. 37 – 41).

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Agarwal, Sitbon and Lebow because the teaching of Agarwal would improve the system of Sitbon and Lebow by promoting recovery of a program via early warning system to avoid system failure/crash (Agarwal Col. 1 Ln. 62 – 67, Col. 2 Ln. 1 – 4).

26. As to claims 10 and 14, see the rejection of claim 3 above.

Conclusion

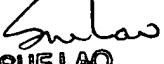
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E Anya whose telephone number is

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(571) 272-3757. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng-Ai can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SUE LAO
PRIMARY EXAMINER

Charles E Anya
Examiner
Art Unit 2126

cea.